

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

In re:)
)
)

MICHAEL J. MELTON,)

Case No. 15-33650-KRH

Debtor.)
_____)

TRUSTEE’S MOTION TO SELL PROPERTY OF THE ESTATE

Harry Shaia, Jr., Trustee (the “**Trustee**”) for the estate (the “**Estate**”) Michael J. Melton (the “**Debtor**”), by counsel, pursuant to section 363(b) of title 11 of the United States Code (the “**Bankruptcy Code**”), moves the Court for authority to sell certain property of the Debtor’s estate for consideration and, in support thereof, states as follows:

Background

1. On July 21, 2015, the Debtor filed for relief in the above-captioned bankruptcy court (the “**Court**”) pursuant to chapter 7 of title 11 of the United States Code (the “**Bankruptcy Code**”).

2. The Trustee was appointed interim Trustee in the case and continues to serve in that capacity.

3. This is a core proceeding over which this Court has jurisdiction under 28 U.S.C. §§ 157(b)(2)(A), (O) and 1334. Venue is proper pursuant to 28 U.S.C. § 1409.

Christian K. Vogel (Va. Bar No. 75537)
Vogel & Cromwell, L.L.C.
8550 Mayland Drive
Suite 204
Richmond, VA 23294
(804) 728-1574

Request for Relief

4. Among the assets of the Estate is a 12.756% economic interest in HAMA II, LLC (the “**Membership Interest**”).

5. HAMA II, LLC (“**HAMA**”) owns a strip mall known as Bowles Farm Plaza, 7500 Jackson Arch Drive, Mechanicsville, VA 23111 (the “**Property**”). The appraised value of the Property is \$4,000,000.00 based on an appraisal dated April 28, 2015, prepared by Donald Powers, Jr. with Integra Realty Resources.

6. The Property secures an obligation owed to the Bank of Hampton Roads in the amount of \$2,974,110.86, which matures on May 15, 2016. See Proof of Claim No. 4. Additionally, the other members of HAMA assert that HAMA owes approximately \$225,000.00 to certain members, not including the Debtor, for loans made by such members to HAMA.

7. By letter dated December 16, 2015, David H. Creasy, CPA, HAMA’s accountant, informed counsel for the Trustee that the Debtor is in default under the HAMA II, LLC Operating Agreement (the “**Operating Agreement**”) by having failed to make certain required capital contributions totaling \$26,148.99 (the “**Creasy Letter**”). The Creasy Letter further provided that interest in the amount of \$11,242.97 has accrued on the unpaid capital contributions pursuant to the terms of the Operating Agreement. A copy of the Creasy Letter is attached hereto as Exhibit A.

8. Based on information provided by the Debtor, the other members of HAMA, and the Creasy Letter, the Trustee has agreed to sell the Membership Interest to HAMA for the purchase price of \$15,000.00 to be paid within two (2) business days of entry of any order of this Court approving such sale.

Vogel &
Cromwell, L.L.C.

9. Pursuant to section 363(b) of the Bankruptcy Code, the Trustee is authorized to sell property of the estate.

10. The Trustee believes that this sale provides the best possible return to the estate based on the fact that the Membership Interest constitutes a minority interest in HAMA, approximately \$37,391.96 is owed to HAMA on account of the Membership Interest, the Property is not fully rented, and the loan secured by the Property comes due in May, 2016.

11. The Trustee, therefore, seeks authority to sell the Debtor's 12.756% economic interest in HAMA II, LLC to HAMA II, LLC for the purchase price of \$15,000.00.

WHEREFORE, the Trustee respectfully requests that the Court enter an Order substantially in the form attached hereto as Exhibit B: (i) approving the sale of the Membership Interest for \$15,000.00; and (ii) granting such other and further relief as is just and appropriate under the circumstances.

HARRY SHAIA, JR., TRUSTEE

/s/ Christian K. Vogel
Counsel

Christian K. Vogel (Va. Bar No. 75537)
Vogel & Cromwell, L.L.C.
8550 Mayland Drive
Suite 204
Richmond, VA 23294
(804) 728-1574

Counsel for the Trustee

Vogel &
Cromwell, L.L.C.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of December, 2015, a true and correct copy of this Trustee's Motion to Sell Property of the Estate by first-class mail, postage prepaid or electronic delivery to:

Robert B. Van Arsdale, Esq.
Office of the U.S. Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Assistant U.S. Trustee

Michael J. Melton
8438 Pheasant Court
Ashland, Virginia 23005

David Edward Noll, Esq.
Cravens & Noll, P.C.
Suite 200
Richmond, VA 23236
Counsel for Debtor

Bernard Meyer, Jr., Esq.
MeyerGoergen P.C.
1802 Bayberry Court, Suite 200
Richmond, Virginia 23226

Mr. Larry Giannasi
P.O. Box 1555
Mechanicsville, VA 23116

William Wood, Esq.
Batzli Stiles Butler
3957 Westerre Pkwy, Suite 400
Richmond, Virginia 23233

David H. Creasy, CPA
2214 Westwood Avenue
Richmond, Virginia 23230

/s/ Christian K. Vogel
Counsel

Vogel &
Cromwell, L.L.C.

EXHIBIT A

Vogel &
Cromwell, L.L.C.



David H Creasy, CPA

Business and Personal Tax Solutions

December 16, 2015

HAMA II, LLC

By: Email

Bernard Meyer, Jr. --Tax Matters Partner

I have been furnished a listing of Capital Calls by Larry Giannasi. Based on those Capital Calls for the period of November 2009 to October 2011, Michael J Melton has paid in \$26,148.99 less than his share.

In addition to the unpaid Capital Calls, I've computed interest at 8% simple interest for the period from December 2009 until December 2015. This amount is \$11,242.97.

Total conservative amount due to HAMA II, LLC from Michael J Melton for his unpaid Capital Calls plus interest is \$37,391.96.

Regards,

David H. Creasy, CPA

EXHIBIT B

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
(Richmond Division)**

_____)	
In re:)	
)	
MICHAEL J. MELTON,)	Case No. 15-33650-KRH
)	
Debtor.)	
_____)	

ORDER AUTHORIZING TRUSTEE TO SELL PROPERTY OF THE ESTATE

Upon consideration of the Trustee's Motion to Sell Property of the Estate (the "**Sale Motion**"), wherein the Trustee seeks this Court's authority to sell, pursuant to 11 U.S.C. § 363(b) the Debtor's 12.756% economic interest in HAMA II, LLC (the "**Membership Interest**"), the Court finds as follows:

1. There are sound and appropriate business reasons for the Trustee to effectuate the transaction described in the Sale Motion.
2. The sale of the Membership Interest pursuant to the terms described in the Sale Motion is permitted under 11 U.S.C. § 363(b).
3. The Debtor's estate will benefit from the sale of the Membership Interest.

Christian K. Vogel (Va. Bar No. 75537)
Vogel & Cromwell, L.L.C.
8550 Mayland Drive
Suite 204
Richmond, VA 23294
(804) 728-1574

Counsel for the Trustee

Vogel &
Cromwell, L.L.C.

4. Notice of the Sale Motion has been provided to the U.S. Trustee, the Debtor, and all creditors, such notice constituting proper and sufficient notice of the Sale Motion for the purposes of Fed. R. Bankr. P. 2002(a)(2) and 6007(a).

Accordingly, it is hereby:

ORDERED that the Trustee is authorized to sell the Membership Interest to HAMA II, LLC for the purchase price of \$15,000.00 to be paid by HAMA II, LLC to the Trustee within two (2) business days of entry of this Order; and it is further

ORDERED that the Trustee is authorized to execute any necessary documents and take any further steps necessary to transfer the Membership Interest to HAMA II, LLC.

ENTERED:

United States Bankruptcy Judge

I ASK FOR THIS:

Christian K. Vogel (Va. Bar No. 75537)
Vogel & Cromwell, L.L.C.
8550 Mayland Drive
Suite 204
Richmond, VA 23294
(804) 728-1574

Vogel &
Cromwell, L.L.C.

Counsel for the Trustee

LOCAL RULE 9022-1 CERTIFICATION

Pursuant to LBR 9022-1, I hereby certify that a true copy of the foregoing Order was endorsed by or served upon all necessary parties.

SERVICE LIST

Robert B. Van Arsdale, Esq.
Office of the U.S. Trustee
701 East Broad Street - Suite 4304
Richmond, VA 23219
Assistant U.S. Trustee

Michael J. Melton
8438 Pheasant Court
Ashland, Virginia 23005

David Edward Noll, Esq.
Cravens & Noll, P.C.
Suite 200
Richmond, VA 23236
Counsel for Debtor

Bernard Meyer, Jr., Esq.
MeyerGoergen P.C.
1802 Bayberry Court, Suite 200
Richmond, Virginia 23226

Mr. Larry Giannasi
P.O. Box 1555
Mechanicsville, VA 23116

William Wood, Esq.
Batzli Stiles Butler
3957 Westerre Pkwy, Suite 400
Richmond, Virginia 23233

David H. Creasy, CPA
2214 Westwood Avenue
Richmond, Virginia 23230

Vogel &
Cromwell, L.L.C.